Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER DOCKET NO.: 2008-0357-PST-E TCEQ ID: RN101788958 CASE NO.: 35460 RESPONDENT NAME: PATRICK H. HETHERLY

	ORDER TYPE:		
AMENDED ORDER _EMERGENCY ORDER _AIR _MULTI-MEDIA (check all that apply) _INDUSTRIAL HAZARDOUS WASTE _PUBLIC WATER SUPPLY _X PETROLEUM STORAGE TANKS _OCCUPATIONAL CERTIFICATION _WATER QUALITY _SEWAGE SLUDGE _UNDERGROUND INJECTION CONTROL _MUNICIPAL SOLID WASTE _RADIOACTIVE WASTE _DRY CLEANER REGISTRATION SITE WHERE VIOLATION(S) OCCURRED: South Highway 8, Maud, Bowie County TYPE OF OPERATION: Former convenience store with retail sales of gasoline SMALL BUSINESS: _X YesNo OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. COMMENTS RECEIVED: The Texas Register comment period expired on November 3, 2008. No comments were received. CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Steven Lopez, Waste Enforcement Section, MC 128, (512) 239-1896 TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Mr. Patrick H. Hetherly, Owner, P.O. Box 384, Maud, Texas 75567	_1660 AGREED ORDER	FINDINGS AGREED ORDER	
CASE TYPE: _AIR	X_FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	
AIR	_AMENDED ORDER	EMERGENCY ORDER	
PUBLIC WATER SUPPLY X PETROLEUM STORAGE TANKS OCCUPATIONAL CERTIFICATION WATER QUALITY SEWAGE SLUDGE UNDERGROUND INJECTION CONTROL MUNICIPAL SOLID WASTE RADIOACTIVE WASTE DRY CLEANER REGISTRATION SITE WHERE VIOLATION(S) OCCURRED: South Highway 8, Maud, Bowie County TYPE OF OPERATION: Former convenience store with retail sales of gasoline SMALL BUSINESS: X Yes No OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. COMMENTS RECEIVED: The Texas Register comment period expired on November 3, 2008. No comments were received. CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Steven Lopez, Waste Enforcement Section, MC 128, (512) 239-1896 TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Mr. Patrick H. Hetherly, Owner, P.O. Box 384, Maud, Texas 75567	CASE TYPE:		
	AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL HAZARDOUS WASTE
MUNICIPAL SOLID WASTERADIOACTIVE WASTEDRY CLEANER REGISTRATION SITE WHERE VIOLATION(S) OCCURRED: South Highway 8, Maud, Bowie County TYPE OF OPERATION: Former convenience store with retail sales of gasoline SMALL BUSINESS: _X_YesNo OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. COMMENTS RECEIVED: The *Texas Register** comment period expired on November 3, 2008. No comments were received. CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Steven Lopez, Waste Enforcement Section, MC 128, (512) 239-1896 TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Mr. Patrick H. Hetherly, Owner, P.O. Box 384, Maud, Texas 75567	PUBLIC WATER SUPPLY	X_PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
SITE WHERE VIOLATION(S) OCCURRED: South Highway 8, Maud, Bowie County TYPE OF OPERATION: Former convenience store with retail sales of gasoline SMALL BUSINESS:X_ Yes No OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. COMMENTS RECEIVED: The Texas Register comment period expired on November 3, 2008. No comments were received. CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Steven Lopez, Waste Enforcement Section, MC 128, (512) 239-1896 TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Mr. Patrick H. Hetherly, Owner, P.O. Box 384, Maud, Texas 75567	WATER QUALITY	SEWAGE SLUDGE	
TYPE OF OPERATION: Former convenience store with retail sales of gasoline SMALL BUSINESS: _X_ Yes No OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. COMMENTS RECEIVED: The Texas Register comment period expired on November 3, 2008. No comments were received. CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Steven Lopez, Waste Enforcement Section, MC 128, (512) 239-1896 TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Mr. Patrick H. Hetherly, Owner, P.O. Box 384, Maud, Texas 75567	MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
	TYPE OF OPERATION: Former convenient SMALL BUSINESS: X Yes OTHER SIGNIFICANT MATTERS: There this facility location. INTERESTED PARTIES: No one other that COMMENTS RECEIVED: The Texas Regard CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Anna M. Co Ms. Lena Robert TCEQ Enforcement Coordinator: TCEQ Regional Contact: Mr. Mich Respondent: Mr. Patrick H. Hetherl	nce store with retail sales of gasoline No e are no complaints. There is no record of add n the ED and the Respondent has expressed an ister comment period expired on November 3, x, Litigation Division, MC 175, (512) 239-097 is, Litigation Division, MC 175, (512) 239-001 Mr. Steven Lopez, Waste Enforcement Section nael Brashear, Tyler Regional Office, MC R-5, y, Owner, P.O. Box 384, Maud, Texas 75567	interest in this matter. 2008. No comments were received. 74 9 n, MC 128, (512) 239-1896

RESPONDENT NAME: PATRICK H. HETHERLY DOCKET NO.: 2008-0357-PST-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation:	Total Assessed: \$8,925	Technical Requirements
Complaint _X_ Routine _X_ Enforcement Follow-up Records Review	Total Deferred: \$0Expedited OrderFinancial Inability to PaySEP Conditional Offset	The Respondent shall undertake the following technical requirements: 1. Within 30 days:
Date of Complaint Relating to this Case: N/A Date of Investigation Relating to this Case: February 7, 2008 Date of NOE Relating to this Case: February 15, 2008 Background Facts: The EDPRP was filed May 7, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on May 9, 2008, as evidenced by the signature on the card. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.	Total Due to General Revenue: \$8,925 This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order. Site Compliance History Classification:HighX_AveragePoor Person Compliance History Classification:HighX_AveragePoor Major Source:YesX_No Applicable Penalty Policy: September 2002	 a. Submit payment for outstanding fees, including any associated penalties and interest to TCEQ; and b. Permanently remove the UST system from service. 2. Within 45 days, submit written certification to demonstrate compliance with the Ordering Provisions above.
Current Compliance Status: Not yet in compliance. PST: 1. Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 Tex. ADMIN. Code § 334.47(a)(2)]. 2. Failed to notify the agency of any change or additional information regarding the USTs within 30 days from the date of occurrence of the change or addition [30 Tex. ADMIN. Code § 334.7(d)(3)]. 3. Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0040830U for fiscal years 1988 through 2007 [30 Tex. ADMIN. Code § 334.22(a) and Tex. WATER Code § 5.702].		

Policy Revision 2 (Sept		nalty	Calculation	on Work	sheet (P	•	evision February 29, 2008
TCEQ	·						
DATES Assigned PCW	19-Feb-2008 6-Mar-2008	Screenir	ng 25-Feb-2008	B EPA Due		1	
RESPONDENT/FACILITY	INFORMATION	resident (Sec. 1981)		To an valor nata	(보안 1947년) 1월 1941		- - 2011년 전 전쟁이 밝혔다면 1일
Respondent	Patrick H. Heth				1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1	**************************************	
Reg. Ent. Ref. No.	RN101788958			T		That .	
Facility/Site Region	5-Tyler		· · · · · · · · · · · · · · · · · · ·	Major	/Minor Source	Minor	
CASE INFORMATION		TYYW YELE					
Enf./Case ID No.				No	. of Violations		
Docket No. Media Program(s)	2008-0357-PS			- En	Order Type	Steven Lopez	
Multi-Media	relioledili Stol	age rank		┤ ""		Enforcement Te	am 6
Admin. Penalty \$ L	imit Minimum.	\$0	Maximum	\$10,000]		
	,	Pen	alty Calcul	ation Sed	ction		
TOTAL BASE PENAL	TY (Sum of	violation	n base penalti	ies)		Subtotal 1	\$8,500
			atorinada la lación de la como en el como en En el contractorio en el como en	and which is a first of the second			
ADJUSTMENTS (+/-) Subtotals 2-7 are obtain	TO SUBTOT	AL 1	Danally (Subtotal 1)	by the indicated ne	rcentace		
Compliance Histo		e Total Dase		6 Enhancement		otals 2, 3, & 7	\$425
			7 * 1982	,		a agir dai gineraja, ya agir daja daga da ana gira nahaji daja d	17
Notes	Enhancemen	t for one p	revious NOV with	n same or simi	lar violations.		
		<u> </u>		2314	and the second		Ė,
Culpability	No	i i		6 Enhancement		Subtotal 4	\$0
Notes		espondent	does not meet ti		riteria.		
Notes			. 4000 1100111				
Good Faith Effort	to Comply		09	& Reduction		Subtotal 5	\$0
	Before NOV	NOV to ED	PRP/Settlement Offe	aran da	- GENERAL FORE TO TO CHARLES A	i Kanadan Kamada da Garati Galada 💷	V
Extraordinary							
Ordinary N/A	X	(mark with x					,
		1111111		· · · · · · · · · · · · · · · · · · ·		1	
Notes	The R	espondent	does not meet th	ne good faith c	riteria.		
	The same of the sa	er som engagene armen processes of		esteur e creatre l'appareil et const	The state of a control system of \$50,000 ft.		•
	Total EB Amounts	\$4,928		6 Enhancement* ed at the Total EB	\$ Amount	Subtotal 6	\$0
Approx.	Cost of Compliance			, , , , , , , , , , , , , , , , , , , ,	• • • • • • • • • • • • • • • • • • • •		
OUL OF OURTOWAL		Seljetember, tø		- Karani eta 1480	2		\$8,925
SUM OF SUBTOTALS	> 1-/					Final Subtotal	\$0,925
OTHER FACTORS AS	S JUSTICE N	AY REC	UIRE	0%		Adjustment	\$0
Reduces or enhances the Final S				>			• • • • • • • • • • • • • • • • • • •
			•				
Notes							
-					Final Pe	」 naity Amount [\$8,925
STATUTORY LIMIT A	DJUSTMEN	T			Final Asse	essed Penalty	\$8,925
		* \$1*\$******	ia rawanin-kana ka wa 1 kata ka		Transis of the participation of the state o	nerg expense rugger profession open profess	
DEFERRAL			(Enforcement	0%	Reduction	Adjustment _	\$0
Reduces the Final Assessed Pen	aity by the indicted p	ercentage. (⊏nter number only; e	.g. 20 ioi 20% red	исноп.)	1	
Notes	Defe	erral not of	fered for non-exp	edited settlem	ent.		
				tan da	a company of the same	and the state of t	
PAYABLE PENALTY							\$8,925

Screening Date 25-Feb-2008

Docket No. 2008-0357-PST-E

PCW

Respondent Patrick H. Hetherly

Case ID No. 35460

Policy Revision 2 (September 2002) PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101788958

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Component	Number of	nter Number Here	Adjust.	
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%	
•	Other written NOVs	0	0%	ĺ
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	.0%	
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%	
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%	
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%	
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%	l
Emissions	Chronic excessive emissions events (number of events)	0	0%	
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%	
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%	
	Pleas	se Enter Yes or No		
	Environmental management systems in place for one year or more	No	0%	
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%	
Other	Participation in a voluntary pollution reduction program	No	0%	
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%	
	Adjustment Po	ercentage (Sı	ıbtotal 2)	5
at Violator (Su	btotal 3)			
No	Adjustment Po	ercentane (Si	ibtotal 3)	0'
		ercemage (Ot	ibiolai o _i	
oliance History	Person Classification (Subtotal 7)			ilania.
Average Po	erformer Adjustment P	ercentage (Sເ	ıbtotal 7)	0
oliance History				
Compliance History	Enhancement for one previous NOV with same or similar violations.			

Screening Date	25-Feb-2008	Docket No	. 2008-0357-PST-E	PCW-
	Patrick H. Hetherly	And the office of the second o	Policy F	Revision 2 (September 2002)
Case ID No.	35460		PCW	Revision February 29, 2008
Reg. Ent. Reference No.	RN101788958			
Media [Statute]	Petroleum Storage Tank		,	
Enf. Coordinator	Steven Lopez			
Violation Number	1			·
Rule Cite(s)		00 7 - 1 Admin 0 - 1 - 0 00	4.47(-)(0)	·
,		30 Tex. Admin. Code § 334	4.47(a)(2)	
Violation Description	implementation date, thre		r than 60 days after the prescribed licable component of the system is e upgrade requirements.	
			Base Penalty	\$10,000
>> Environmental, Property a	and Human Health M	atrix		
Section 1 in the section of the sect	Harm			
Release OR Actual		Minor		
OR Actual Potential			Percent 25%	
i ociniai			20,00	i
>>Programmatic Matrix Falsification	Major Moderate	Minor	Percent 0%	के हैं। के के क
Matrix Notes Human hea that are	Ith or the environment will protective of human heal	or could be exposed to poll th or environmental recepto	lutants which would exceed levels irs as a result of the violation.	
			Adjustment \$7,500	.
				\$2,500
Violation Events				
Number of Vio	olation Events 3	18	Number of violation days	4
mark only one with an x	daily monthly x quarterly semiannual annual single event		Violation Base Penalty	\$7,500
			ased on the documentation of the ruary 25, 2008 screening date.	
Economic Benefit (EB) for th	is violation		Statutory Limit Test	
Estimate	d EB Amount	\$4,925	Violation Final Penalty Total	\$7,875
		This violation Final Asses	ssed Penalty (adjusted for limits)	\$7,875
	ALCOHOLOGICAL STATE OF THE STAT	表的表现在它的基础与通知的PV等的图像是不是通过。这是		2500 FX 300 FX 25-20 GA 26 GA

Case ID No.							
Reg. Ent. Reference No.	RN101788958						
	Petroleum Stor	age Tank				<u> </u>	Years of
Violation No.		ago ranii				Percent Interest	Depreciation
		ang ja thy Percent	TRANSITIO			5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	1,	EB Amount
		Date Required	Fillal Date	115	iiiterest Saveu	Offetime Costs	ED AMOUNT
Item Description	No commas or \$	Dalko auguste				nuti a na fatitita d	dan ka irang
		ini wajawa awa	en inger skræmen.	s engs i e	al wy care electr.	dianome transfer	willing introduced 1990s
Delayed Costs Equipment			<u> </u>	0.0	\$0	I \$0	\$0
Equipment Buildings				0.0	\$0	\$0	\$0 \$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System		•		0.0	\$0		\$0
Training/Sampling				0.0	\$0	La La n/a La	\$0
Remediation/Disposal				0.0	60	n/a	\$0
	L	IL		0.0	\$0	DESCRIPTION OF THE PARTY OF THE	
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$10,000 The estimate	22-Dec-1998 ed cost to permane	25-Oct-2008 intly remove the U	0.0 9.8	\$0 \$4,925		\$0 \$4,925
Other (as needed) Notes for DELAYED costs Avoided Costs	The estimate Respondent v	ed cost to permane was required to upo	intly remove the Usgrade the UST sys	0.0 9.8 ST systetem and	\$0 \$4,925 em from service. I the Final Date is item (except for	The Date Required is the estimated date cone-time avoided cone-tim	\$0 \$4,925 the date the f compliance.
Other (as needed) Notes for DELAYED costs	The estimate Respondent v	ed cost to permane was required to upo	intly remove the Usgrade the UST sys	9.8 9.8 ST systetem and	\$0 \$4,925 em from service. I the Final Date is	The Date Required is the estimated date of	\$0 \$4,925 the date the f compliance.
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal	The estimate Respondent v	ed cost to permane was required to upo	intly remove the Usgrade the UST sys	0.0 9.8 ST systetem and	\$0 \$4,925 em from service. I the Final Date is item (except for	The Date Required is the estimated date cone-time avoided cone-tim	\$0 \$4,925 s the date the f compliance.
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	The estimate Respondent v	ed cost to permane was required to upo	intly remove the Usgrade the UST sys	0.0 9.8 ST systetem and ntering 0.0 0.0 0.0	\$0 \$4,925 em from service. It the Final Date is item (except for \$0 \$0 \$0 \$0	The Date Required is the estimated date cone-time avoided cone-tim	\$0 \$4,925 s the date the of compliance. sosts) \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	The estimate Respondent v	ed cost to permane was required to upo	intly remove the Usgrade the UST sys	0.0 9.8 ST systetem and one of the control of the	\$0 \$4,925 em from service. If the Final Date is item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	The Date Required is the estimated date cone-time avoided cone-tim	\$0 \$4,925 s the date the of compliance. sosts) \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	The estimate Respondent v	ed cost to permane was required to upo	intly remove the Usgrade the UST sys	0.0 9.8 ST systetem and one of the control of the	\$0 \$4,925 em from service. I the Final Date is item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	The Date Required is the estimated date of the standard date of the stan	\$0 \$4,925 s the date the f compliance. osts) \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	The estimate Respondent v	ed cost to permane was required to upo	intly remove the Usgrade the UST sys	0.0 9.8 ST systetem and one of the control of the	\$0 \$4,925 em from service. If the Final Date is item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	The Date Required is the estimated date cone-time avoided cone-tim	\$0 \$4,925 s the date the of compliance. sosts) \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	The estimate Respondent v	ed cost to permane was required to upo	intly remove the Usgrade the UST sys	0.0 9.8 ST systetem and one of the control of the	\$0 \$4,925 em from service. I the Final Date is item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	The Date Required is the estimated date of the standard date of the stan	\$0 \$4,925 s the date the f compliance. osts) \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	The estimate Respondent v	ed cost to permane was required to upo	intly remove the Usgrade the UST sys	0.0 9.8 ST systetem and one of the control of the	\$0 \$4,925 em from service. I the Final Date is item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	The Date Required is the estimated date of the standard date of the stan	\$0 \$4,925 s the date the f compliance. osts) \$0 \$0 \$0 \$0 \$0

Screening Date	25-Feb-2008	Docket No. 2008-0357-PST-E	PCW
Respondent	Patrick H. Hetherly		Policy Revision 2 (September 2002)
Case ID No.	35460		PCW Revision February 29, 2008
Reg. Ent. Reference No.	RN101788958	•	
Media [Statute]	Petroleum Storage Tank	·	Ì
Enf. Coordinator	·····		
Violation Number	2		
Rule Cite(s)		30 Tex. Admin. Code § 334.7(d)(3)	
Violation Description	30 days from the date registration was not upd	of any change or additional information regarding US of occurrence of the change or addition. Specifically, lated to reflect the correct ownership information and coperational status of the UST system.	the
		Base	Penalty \$10,000
>> Environmental, Property a	nd Human Health Ma	trix	,
	Harm		
Release	Major Moderate	Minor	
OR Actual Potential		Percent 0%	
i dicinial		1 515511	
>>Programmatic Matrix		Miner	
Falsification	Major Moderate	Minor Percent : 10%	Action to the
	X	Fercent 10%	
		The state of the s	
Matrix Natrix	100% of th	ne rule requirement was not met.	
Notes			
			\$0,000
		Adjustment	\$9,000
			\$1,000
Violation Events			
			XXXXXXXXXXXXXXXX
Number of Vio	lation Events 1	Number of violation days	·
mark only one with an x	daily monthly quarterly semiannual annual single event x	Violation Base	Penalty \$1,000
One single ev	vent is recommended base	d on the documentation of the violation during the Feb 2008 investigation.	ruary 7,
Economic Benefit (EB) for thi	s violation	Statutory Limit Test	
Estimated	I EB Amount	\$4 Violation Final Penal	ty Total \$1,050
	· · · · · · · · · · · · · · · · · · ·	This violation Final Associated Development of Section 1	# limita) 04.050
		This violation Final Assessed Penalty (adjusted for	r limits) \$1,050

		conomic	Benefit W	orks	sheet		
Respondent	Patrick H. Heth	eriv	fi sai sasa	22		e 117 eta 1. esta 1. esta 1. e	To refuse the control of
Case ID No.	,	ony					
Reg. Ent. Reference No.	ė .	~ .					775 V-14-1-2-1
- N. Garago - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 -	Petroleum Stor	age rank				Percent Interest	Years of
Violation No.	,2	er i marti a a la la danci i stici la	the results of the second	et 15 - 7	المال ويعاد وراسعا العراس العراس مواسا		Depreciation
즐거움하지요 그는 것은 그 하이크 시험의						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No common or \$			12 4			
item Description	NO COMMINAS OF 3	. San dan Salakti matik k	akaki 1 ku ku alabah.	real Print	MAD THE STATE OF THE	in a shadh din Na shadhishi	Artist Honel Philason, Mi
an also no eremparada e e dual e du	grown grips	g in end gegroeden	18.88 N. 48 8 8 8 8	يسرما جيجراء	ora kraji izbili	garagas da santa	
Delayed Costs	<u> </u>	Tr .		1 00	- 00	T 60 I	
Equipment				0.0	\$0 \$0	\$0 \$0	\$0 \$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0 \$0
Training/Sampling				0.0	\$0	n/a	\$0 \$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	L			0.0	\$0	Jakan n/ak wate	\$0
Other (as needed)	\$100	7-Feb-2008	25-Oct-2008	0.7	\$4	in/a si in/a	\$4
Į,							• " " " "
Notes for DELAYED costs	Estimated				dated UST registra the estimated date	ation. The Date Req e of compliance.	uired is the
		investigation	date and the Final	Date is	the estimated date	e of compliance.	
Avoided Costs		investigation	date and the Final	Date is	the estimated date	of compliance.	osts)
		investigation	date and the Final	Date is	the estimated date	one-time avoided c	osts) \$0
Avoided Costs Disposal		investigation	date and the Final	Date is	the estimated date item (except for \$0	of compliance.	osts)
Avoided Costs Disposal Personnel		investigation	date and the Final	ntering 0.0 0.0	item (except for \$0 \$0	one-time avoided c	osts) \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling		investigation	date and the Final	ntering 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0	s0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment		investigation	date and the Final	0.0 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0	sosts) \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]		investigation	date and the Final	ntering 0.0 0.0 0.0 0.0 0.0 0.0	Item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0	so s
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]		investigation	date and the Final	ntering 0.0 0.0 0.0 0.0 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
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Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)		investigation	date and the Final	ntering 0.0 0.0 0.0 0.0 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	sosts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
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Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)		investigation	date and the Final	ntering 0.0 0.0 0.0 0.0 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	sosts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

Screening Date 2		PCW
	Patrick H. Hetherly	Policy Revision 2 (September 2002)
Case ID No. 3		PCW Revision February 29, 2008
Reg. Ent. Reference No. F		
	Petroleum Storage Tank	
Enf. Coordinator		
Violation Number	3	
Rule Cite(s)	30 Tex. Admin. Code § 334.22(a) and Tex. Admin. Code § 5.702	
· · ·		
Violation Description	Failed to pay outstanding UST fees and associated late fees for TCEQ Fina Account No. 0040830U for fiscal years 1988 through 2007.	ancial
	Base	Penalty \$10,000
>> Environmental, Property ar		
Release	Harm Major Moderate Minor	•
OR Actual	Willion William	,
Potential	Percent 0%	
>>Programmatic Matrix	Major Moderate Minor	West War.
Falsification	Major Moderate Minor Percent 0%	
Matrix Notes		
Notes		
	Adjustment	\$10,000
		\$0
Violation Events		
Number of Viola	ation Events Number of violation day	s
N C	daily	
	monthly	5
mark only one · with an x	quarterly Violation Base	Penalty \$0
	annual	
	single event	
	THE STATE OF THE S	
No penalty	is recommended because penalty and interest will be assessed at the next bit	ling.
Economic Benefit (EB) for this	violation Statutory Limit Tes	st -
Estimated	EB Amount \$0 Violation Final Pena	alty Total \$0
Estillated	TO WILLOUIT AND AIGIGING LINE LANG	ity Total 90
	This violation Final Assessed Penalty (adjusted fo	or limits) \$0

	E	conomic	Benefit W	ork	sheet		
Responden	t Patrick H. Heth	erlv		1 F	the second se	Water to the Santa Control	A CONTRACTOR
Case ID No		,					
Reg. Ent. Reference No							
	Petroleum Stor	ana Tank					Years of
Violation No		age rain				Percent Interest	Depreciation
VIOIATION INO	., 3	the second of the second	والأناث المراكين ويعطفون		and region and also		
			민족들이 생활하다.	P. 200		5.0	15
연락된 마루 경하는데 그 나를 하게 하다.	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
The state of the s	The state of the s						
Delayed Costs						Zina da Majerijeka	
Equipment		1	1	0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	. \$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	in/a	\$0
Remediation/Disposal				0.0	\$0	on/a series	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)		1		0.0	\$0	an/and the	\$0
							•
Notes for DELAYED costs				N/A			
Notes to DELATED Costs				inn			
			<u>in a la partir di</u>				
Avoided Costs	ANN	UALIZE [1] avoid	led costs before e	ntering	item (except for	one-time avoided c	osts)
Disposal			100 000 000 000 000	0.0	\$0	\$0	\$0
Personnel			1. 1. 1. 11.1.1	0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]			-1	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			Marketine and the	0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
		eri, erdalidi.					
Notes for AVOIDED costs							
Notes for AVOIDED Costs							
				1			11 1 1 2 2 2
			7		teraphy and appropriate and the		
Approx. Cost of Compliance	1	\$0	11		TOTAL		\$0

Compliance History

Custome	r/Respondent/Owner-Operator:	CN600968762	Hetherly Patrick H		Classification: AVE	RAGE F	Rating: 3.00
Regulate	d Entity:	RN101788958	PATRICK H HETHERLY		Classification: AVER	AGE S	Site Rating: 3.00
ID Numb	er(s):	PETROLEUM ST REGISTRATION	ORAGE TANK	REGISTRA	ATION	647	09
Location:		S HWY 8, MAUD	, TX, 75567		Rating Date: 9/1/200	7 Repeat Vi	olator: NO
TCEQ Re	egion:	REGION 05 - TYL	ER				
Date Con	npliance History Prepared:	February 25, 2008	3			•	
Agency D	Decision Requiring Compliance History:	Enforcement					
Complian	ce Period:	February 25, 2003	3 to February 25, 2008				
TCEQ St Name:	aff Member to Contact for Additional Info		nis Compliance History one: 512-239-1896				
		Site C	ompliance History Com	ponents			
1. Has th	e site been in existence and/or operation	for the full five year	compliance period?	Yes			
2. Has th	ere been a (known) change in ownership	of the site during the	e compliance period?	No		,	
3. If Yes,	who is the current owner?			N/A			
4. if Yes,	who was/were the prior owner(s)?	· "výc.		N/A		<u> </u>	or i
5. When	did the change(s) in ownership occur?	5		N/A			r.s
A.	nents (Multimedia) for the Site Final Enforcement Orders, court judger N/A			and the federa	il government.		
В.	Any criminal convictions of the state of N/A	Texas and the feder	al government.				
C.	Chronic excessive emissions events.						
	N/A						
D.	The approval dates of investigations. (0	CCEDS Inv. Track. N	lo.)				
,	1 02/12/2007 (536823) 2 02/15/2008 (617646)						
E.	Written notices of violations (NOV). (Co	CEDS Inv. Track. No	.)				
	Date: 02/12/2007 (53682	3)					
	Self Report? NO			fication: Mo	derate		
	Description: Failed to per implementat	ion date, three USTs	er C 334.47(a)(2) om service, no later than 60 d of for which any applicable cor- be with the upgrade requirement	nponent of the			
	Self Report? NO		Classi	fication: Mo	derate		
	Description: Failed to not		er A 334.7(d)(3) or change or additional informatic ccurrence of the change or a		USTs		
F.	Environmental audits. N/A						
G.	Type of environmental management sy	stems (EMSs).					
	N/A						
Н.	Voluntary on-site compliance assessme	ent dates.					
	N/A						
I.	Participation in a voluntary pollution rec	luction program.					

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
PATRICK H. HETHERLY;	§ §	
RN101788958	§	ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2008-0357-PST-E

At its	agenda, the Texas Commission on Environmental Quality,
("Commission" or "TCEQ"	') considered the Executive Director's Preliminary Report and Petition
filed pursuant to TEX. WAT	TER CODE chs. 5, 7, and 26 and the rules of the TCEQ, which requests
appropriate relief, including	the imposition of an administrative penalty and corrective action of the
respondent. The responden	t made the subject of this Order is Patrick H. Hetherly ("Mr. Hetherly").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

- 1. Mr. Hetherly owns a former convenience store with retail sales of gasoline located at South Highway 8, Maud, Bowie County, Texas (the "Facility").
- 2. Mr. Hetherly's three underground storage tank(s) ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Hetherly's USTs contain a regulated substance as defined in the rules of the Commission.
- 3. During a record review conducted on February 7, 2008, a TCEQ Tyler Regional Office investigator documented that Mr. Hetherly:
 - a. Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements;
 - b. Failed to notify the agency of any change or additional information regarding the USTs within 30 days from the date of occurrence of the change or addition. Specifically, the registration was not updated to reflect the correct ownership information and current operational status of the UST system; and

- c. Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0040830U for fiscal years 1988 through 2007.
- 4. Mr. Hetherly received notice of the violations on or about February 20, 2008.
- 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Patrick H. Hetherly" (the "EDPRP") in the TCEQ Chief Clerk's office on May 7, 2008.
- 6. By letter dated May 7, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Hetherly with notice of the EDPRP. According to the return receipt "green card," Mr. Hetherly received notice of the EDPRP on May 9, 2008, as evidenced by the signature on the card.
- 7. More than 20 days have elapsed since Mr. Hetherly received notice of the EDPRP, provided by the Executive Director. Mr. Hetherly failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Hetherly is subject to the jurisdiction of the TCEQ pursuant to Tex. WATER CODE chs, 5, 7, and 26 and the rules of the Commission.
- 2. As evidenced by Finding of Fact No. 3.a., Mr. Hetherly failed to to permanently remove from service, no later than 60 days after the prescribed implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 Tex. ADMIN. CODE § 334.47(a)(2).
- 3. As evidenced by Finding of Fact No. 3.b., Mr. Hetherly failed to notify the agency of any change or additional information regarding the USTs within 30 days from the date of occurrence of the change or addition, in violation of 30 Tex. ADMIN. CODE § 334.7(d)(3).
- 4. As evidenced by Finding of Fact No. 3.c., Mr. Hetherly failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0040830U for fiscal years 1988 through 2007, in violation of 30 Tex. ADMIN. CODE § 334.22(a) and Tex. WATER CODE § 5.702.
- 5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Hetherly with proper notice of the EDPRP, as required by Tex. WATER CODE § 7.055 and 30 Tex. ADMIN. CODE § 70.104(a).

- As evidenced by Finding of Fact No. 7, Mr. Hetherly failed to file a timely answer to the EDPRP, as required by Tex. Water Code § 7.056 and 30 Tex. Admin. Code § 70.105. Pursuant to Tex. Water Code § 7.057 and 30 Tex. Admin. Code § 70.106, the Commission may enter a Default Order against Mr. Hetherly and assess the penalty recommended by the Executive Director.
- 7. Pursuant to Tex. Water Code § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Hetherly for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
- 8. An administrative penalty in the amount of eight thousand nine hundred twenty-five dollars (\$8,925.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in Tex. Water Code § 7.053.
- 9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Hetherly is assessed an administrative penalty in the amount of eight thousand nine hundred twenty-five dollars (\$8,925.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Mr. Hetherly's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Patrick H. Hetherly; Docket No. 2008-0357-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. Mr. Hetherly shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Mr. Hetherly shall:
 - i. Submit payment for outstanding fees, including any associated penalties and interest and with the notation, "Patrick H. Hetherly, TCEQ Financial Account No. 0040830U" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- ii. Permanently remove the UST system from service, in accordance with 30 Tex. ADMIN. CODE § 334.55.
- b. Within 45 days after the effective date of this Order, Mr. Hetherly shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. Hetherly shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.ii. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Michael Brashear, Waste Section Manager Texas Commission on Environmental Quality Tyler Regional Office 2916 Teague Drive Tyler, Texas 75701-3734

- 3. All relief not expressly granted in this Order is denied.
- 4. The provisions of this Order shall apply to and be binding upon Mr. Hetherly. Mr. Hetherly is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
- 5. If Mr. Hetherly fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Hetherly's failure to comply is not a violation of this Order. Mr. Hetherly shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Hetherly shall notify the Executive Director within seven days after Mr. Hetherly becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Hetherly shall be made in writing to the Executive Director. Extensions are not effective until Mr. Hetherly receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Hetherly if the Executive Director determines that Mr. Hetherly has not complied with one or more of the terms or conditions in this Order.
- 8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
- 9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 Tex. ADMIN. CODE § 70.106(d) and Tex. Gov'T CODE § 2001.144.

Patrick H. Hetherly Docket No. 2008-0357-PST-E Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF ANNA M. COX

STATE OF TEXAS COUNTY OF TRAVIS

"My name is Anna M. Cox. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Patrick H. Hetherly" (the "EDPRP") was filed with the Office of the Chief Clerk on May 7, 2008.

The EDPRP was mailed to Mr. Hetherly at his last known address on May 7, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Hetherly received notice of the EDPRP on May 9, 2008, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Hetherly received notice of the EDPRP. Mr. Hetherly failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."

Anna M. Cox, Attorney

Office of Legal Services, Litigation Division Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Anna M. Cox, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this <u>Q</u> day of <u>Septembus</u>.D., 2008.

Margaret Jackson Notary Public State of Texas commission Expires OCTOBER 06, 2009